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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,722	08/04/2000	Michele Himmelspace	235.00	2874

7590 04/21/2004  
Baxter Healthcare Corporation  
P O Box 15210  
Irvine, CA 92614

EXAMINER

ROBINSON, HOPE A

ART UNIT	PAPER NUMBER
1653	

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/632,722	<b>Applicant(s)</b> HIMMELSPACH ET AL.	
	<b>Examiner</b> Hope A. Robinson	<b>Art Unit</b> 1653	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-15 and 17-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1, 4-15, 17-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. Applicant's response to the Office Action mailed August 25, 2003 on January 26, 2004 is acknowledged.
2. Claims 2-3, 16 and 34-43 have been canceled. Claims 1, 4-14 and 17-33 have been amended. Claims 1, 4-15 and 17-33 are pending and under examination.
3. The objections to the Priority and Claims have been withdrawn. The rejections under 35 U.S.C. 112, first paragraph and 102(a) have been withdrawn.
4. The following grounds of rejection are or remain applicable:

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 1, 4-15 and 17-33 are rejected under 112, second paragraph as failing to distinctly point out the subject matter applicant regards as his invention.

Claim 1 is indefinite for the recitation of "a modification between Glu226 and Ile235" and the recitation of "such as amino acids Glu226 to Arg234 and residue 235" because "between Glu226 and Ile235" means residues 227-234 are modified as the

word "between" does not include residues 226 or 235, just the ones that are between. The dependent claims hereto are also included in this rejection for example, claim 17 and its dependent claims.

Claim 4 is indefinite for the recitation of "the amino acid sequence of residues 227-233 (R8-R7-R6-R5-R4-R3-R2) is" instead of the proper sentence structure "the amino acid sequence of residues 227-233 (R8-r7-R6-R5-R4-R3-R2) are".

Claim 5 is indefinite because it is duplicative as it contains the limitations of claim 4 and 1, which already recites modifications to position 235, which is "R1". Thus, claim 5 does not appear to more narrowly define the claimed invention (see also claim 7).

For clarity, claim 6 should recite "sequence of residues 227-233" instead of "sequence from residues 227-233" as in claim 5 and replace "is" with "are".

Claims 9-10 lacks antecedent basis as the claims depend from claim 1 which recites a specific range of modifications. It is suggested that applicant rewrite claim 9 in independent form.

Claim 19 is indefinite for the recitation of "in of claim 17".

6. Applicant's arguments filed on January 26, 2004 have been fully considered. The rejections of record have been withdrawn, however, new grounds of rejections have been instituted under 35 U.S.C. 112, second paragraph for the reasons stated above based on applicant's amendments to the claims.

***Conclusion***

7. No claims are presently allowable.
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

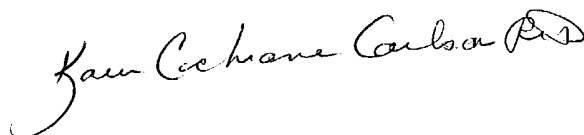
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday from 9:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S.F. Low can be reached on 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope Robinson, MS<sup>W</sup>

Patent Examiner

A handwritten signature in cursive script that reads "Karen Cochrane Carlson" followed by a stylized "Ph.D." or similar initials.

KAREN COCHRANE CARLSON, PH.D  
PRIMARY EXAMINER